

VZCZCXRO7823
PP RUEHCHI RUEHCN RUEHDT RUEHHM
DE RUEHBK #2489/01 2731016
ZNY CCCCC ZZH
P 301016Z SEP 09
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 8439
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHKO/AMEMBASSY TOKYO PRIORITY 1969
RUEHBJ/AMEMBASSY BEIJING PRIORITY 7536
RUEHUL/AMEMBASSY SEOUL PRIORITY 5839
RUEHBY/AMEMBASSY CANBERRA PRIORITY 0024
RUEHCHI/AMCONSUL CHIANG MAI PRIORITY 7075
RUEKJCS/SECDEF WASHINGTON DC PRIORITY
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
RUEKDIA/DIA WASHDC PRIORITY
RUEAIIA/CIA WASHINGTON DC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002489

SIPDIS

STATE FOR EAP/MLS

E.O. 12958: DECL: 02/12/2019

TAGS: [PREL](#) [PGOV](#) [TH](#)

SUBJECT: THAILAND: PREAH VIHEAR IN PLAY AGAIN AS BOTH A
DOMESTIC ISSUE AND IRRITANT IN THAI-CAMBODIAN RELATIONS

REF: A. BANGKOK 2405 (BRAWL NEAR BORDER)
[1](#)B. 08 BANGKOK 1951 (DEBATE BEGINS)
[1](#)C. 08 BANGKOK 1878 (TEMPLE MAP APPROVED)
[1](#)D. BANGKOK 2418 (RUBBER SAPLING VERDICT)

BANGKOK 00002489 001.2 OF 002

Classified By: Charge a.i. JAMES F. ENTWISTLE, REASON 1.4 (B) AND (D)

[1](#)1. (SBU) SUMMARY: The swirl of issues around the Preah Vihear temple on the Thai-Cambodian border once again garnered headlines as both a domestic issue and irritant in Thai-Cambodian relations, as it did in mid-2008. The Thai National Counter Corruption Commission (NCCC) voted on September 29 to file criminal charges against former Prime Minister Samak Sundaravej and former Foreign Minister Noppadon Pattama for their roles in a 2008 joint communique with Cambodia regarding the Preah Vihear temple inscription as a World Heritage Site. At the same time, the NCCC dropped possible related charges against a host of other lesser ranking officials. While the indictment of Samak and Noppadon was front-page news, the legal procedures involved in bringing the case to trial mean this case is far from resolution. Prime Minister Abhisit Vejjajiva and other Thai officials responded in a cool and measured manner to Cambodian Prime Minister Hun Sen's reported acerbic comments that any Thais entering disputed territory along the border would be shot.

[1](#)2. (C) COMMENT: Less than two weeks after opposing Thai civil society movements violently clashed several kilometers away from Preah Vihear temple (REF A), issues related to the temple and nearby disputed territory continue to loom large in the Thai public consciousness and management of the Thai-Cambodian bilateral relationship. The NCCC decision has little immediate impact, given the months before the case against Samak and Noppadon possibly makes it to court, and a likely lengthy subsequent court proceeding. The measured Thai response to Hun Sen's reported comments represents an interest avoiding any rhetorical escalation of the issue as Bangkok seeks to manage border issues and bilateral relations. End Summary and Comment.

THE CASE AGAINST SAMAK AND NOPPADON: HURRY UP AND WAIT

[1](#)3. (U) The National Counter Corruption Commission (NCCC)

voted 6-3 on September 29 to file criminal charges against former Prime Minister Samak Sundaravej and former Foreign Minister Noppadon Pattama, based on Article 157 of the Constitution, for their role in approving a joint communique with Cambodia in June 2008 supporting Preah Vihear temple's inscription in the UNESCO World Heritage Site list (refs B and C). The NCCC voted 8-1 to dismiss complaints against the other members of the Samak cabinet, as well as lower-ranking officials in the MFA and elsewhere. (Note: In addition to financial corruption, the NCCC has a broad mandate which includes malfeasance, removal from office, and initiating criminal proceedings against persons holding political office).

¶4. (SBU) The charges of malfeasance stem from the 2008 Constitution Court ruling that the joint communique violated Article 190 of the Constitution, with the court deciding that the Samak government had failed to seek parliamentary approval/review of the agreement. The People's Alliance for Democracy (PAD, aka "yellow-shirts") filed a subsequent complaint, alleging officials had violated both Articles 157 and 119 of the Criminal Code. While the NCCC found Samak and Noppadon negligent in their duties under Article 157, which carries a potential punishment of up to 10 years imprisonment and/or a fine of up to 20 thousand baht if a court finds them guilty, the NCCC declined to pursue charges of damaging national sovereignty under Article 119, which would carry a possible punishment of death or life imprisonment.

¶5. (U) Legal procedures ensure the case against Samak and Noppadon is unlikely to see the inside of the courtroom for some time, however. The NCCC will submit its ruling to the President of the Senate for further consideration of the removal of the Samak cabinet from office, per the PAD

BANGKOK 00002489 002.2 OF 002

complaint. While the Samak government fell in October 2008, the procedure still has a potential impact; if found guilty, Samak and Noppadon would be banned from holding any political office for five years from the time of the decision (Note: both are currently banned due to the December 2, 2008 ruling against the People's Power Party for electoral fraud).

¶6. (SBU) The Office of the Attorney General (OAG) must then review the case and decide whether to formally file criminal charges. Based on the handling of the recently concluded rubber sapling case (REF D), the OAG will likely take several months to consider the case; if the OAG deems the case incomplete, a working group of the OAG and NCCC will be established to complete the case. If the OAG-NCCC working group cannot come to a consensus, the NCCC has the power to pursue the case directly with the courts. However, the rubber sapling case precedent suggests that, in the absence of an OAG endorsement, an NCCC forwarded case may well prove to be too weak to secure a court decision against the defendants.

MEASURED THAI RESPONSE TO HUN SEN'S REPORTED REMARKS

¶7. (SBU) On the same day as the NCCC ruling, Thai headlines September 29 focused on Cambodian PM Hun Sen's alleged comments threatening to shoot any Thai, civilian or military, who crossed the border, and to tear up any Thai map used in border negotiation talks. Thai civilian and military officials involved in security and border issues, such as DPM Suthep and Army Commander Anupong, reacted calmly to the reported comments, stressing that Thailand would seek to resolve border disputes peacefully, through the established joint border commission mechanism. Prime Minister Abhisit subsequently reiterated Thailand's commitment to finding a peaceful solution to the disputed territory near Preah Vihear temple.
ENTWISTLE